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Attorneys for Plaintiffs Daniel Wallace and Kelly Wallace

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

	X	
	:	
DANIEL WALLACE AND KELLY	:	
WALLACE,	:	
	:	
Plaintiffs,	:	Civil Action No.
	:	
v.	:	
	:	
	:	COMPLAINT AND DEMAND FOR
	:	JURY TRIAL
MICHAEL J. HARKIN, M. HARKIN	:	
CONSTRUCTION, LLC, M. HARKIN	:	
CONSTRUCTION INC., and	:	
CHRISTOPH MENDOZA-LOPEZ,	:	
	:	
Defendants.	:	

COMPLAINT FOR DAMAGES

Plaintiffs, Daniel Wallace and Kelly Wallace, as and for their Complaint, allege that, at all relevant times hereinafter mentioned:

PARTIES

1. Plaintiffs Daniel Wallace and Kelly Wallace are citizens of the State of Pennsylvania and reside in Milford, Pennsylvania.

2. Defendant Michael J. Harkin is a citizen of the State of New Jersey and resides in Waldwick, New Jersey.

3. Defendant M. Harkin Construction, LLC is a Limited Liability Company organized under the laws of the State of New Jersey with its principal place of business at Paramus, New Jersey 07652 and whose members are, upon information and belief, all citizens of the State of New Jersey.

4. Defendant M. Harkin Construction, Inc., is a domestic corporation organized under the laws of the State of New Jersey with its principal place of business at Paramus, New Jersey 07652.

5. Upon information and belief, Michael J. Harkin is the sole member of M. Harkin Construction, LLC and M. Harkin Construction Inc. and the sole shareholder of M. Harkin Construction, Inc.

6. Defendant Christoph Mendoza-Lopez (hereinafter referred to as “defendant Lopez”) is a citizen of the State of New Jersey, and resides in Bergenfield, New Jersey 07621.

7. Unless otherwise stated, the defendants, Michael J. Harkin, M. Harkin Construction, LLC, and M. Harkin Construction, Inc., will hereinafter be referred to as “the Harkin Defendants”.

JURISDICTION AND VENUE

8. The matter in controversy exceeds the sum of \$75,000 exclusive of costs and interest.

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because Plaintiffs are citizens of the State of Pennsylvania, Defendants are citizens of New Jersey and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial

part of the events or omissions giving rise to the claims asserted in this action occurred in this district.

COUNT I – NEGLIGENCE

11. Defendants own, operate, manage and control a general contracting and construction Management Company located in Bergen County, New Jersey.

12. Prior to February 12, 2021, the Harkin defendants entered into an employment agreement to employ defendant Lopez to drive motor vehicles to various job worksites for the Harkin defendants.

13. Prior to February 12, 2021, the Harkin defendants owned a 2000 Ford E-150 van.

14. On February 12, 2021, defendant Lopez was driving said vehicle in the course of his employment with the Harkin defendants and with the Harkin defendants' consent when he negligently and carelessly made a left turn from Route 208 onto Ewing Avenue in Franklin Lakes, New Jersey and failed to stop at the intersection crashing directly into an automobile being driven by plaintiff Daniel Wallace.

15. Due to the aforesaid, Plaintiff was caused serious and permanent personal injuries including surgery on his left shoulder, neck, and back which resulted in a loss of time from work and salary, medical expenses and other damages.

16. Plaintiff's injuries were caused by the negligence of defendant Lopez for which the Harkin defendants are liable for including under the doctrine of "*Respondeat Superior*."

17. By reason of the aforesaid, Plaintiff demands damages against Defendants in a sum greater than \$75,000.00 exclusive of interest and costs.

COUNT II- LOSS OF SPOUSAL CONSORTIUM

18. Plaintiffs repeat, reallege and reiterate each and every allegation contained in

paragraphs “1” through “17” inclusive of this Complaint as if more fully set forth at length herein.

19. Kelly Wallace is the spouse of Plaintiff Daniel Wallace, having been married on July 27, 2002.

20. By reason of the aforesaid, Plaintiff Kelly Wallace lost the society, consortium, attention and services of Daniel Wallace.

WHEREFORE, Plaintiffs demand compensatory damages in a sum that exceeds \$75,000, pre-and post-judgment interest, costs, and all such other and further relief as may be just under the circumstances.

WEITZ & LUXENBERG, P.C.
A New York Professional Corporation
Attorneys for Plaintiffs, Daniel Wallace
and Kelly Wallace

By: /s/Ellen Relkin

Dated: August 9, 2021

DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a jury trial as to all issues and defenses.

WEITZ & LUXENBERG, P.C.
A New York Professional Corporation
Attorneys for Plaintiffs, Daniel Wallace
and Kelly Wallace

By: /s/Ellen Relkin

Dated: August 9, 2021

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that, to the best of my knowledge, that this matter is not the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

WEITZ & LUXENBERG, P.C.
A New York Professional Corporation
Attorneys for Plaintiffs, Daniel Wallace
and Kelly Wallace

By: /s/Ellen Relkin

Dated: August 9, 2021